

# **STATE LAND MANAGEMENT QUESTIONNAIRE**

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**FIG Commission 7 Annual Meeting  
Kuala Lumpur 12 – 16 October 2009**

## **Proposal: that Commission 7 undertakes comparative research into the management of state land by different countries**

- Proposal put forward by Elikkos Elia (Cyprus) and Richard Grover (UK)
- Method: a questionnaire to obtain information about state land management for a range of different countries (draft circulated) to be followed by iterative analysis by contributors.
- Outputs:
  - Comparative analysis of state land management, policies, issues and outcomes for publication
  - Website where interested persons can gain access to the questionnaires and comparative data about different countries

# Is it worth doing?

Substantial portion of most nations' land is in the hands of the public sector.

Public sector is an important supplier of services that require real estate assets eg health care, education, defence

**BUT** there are issues with the management of state land throughout the world.

- Evidence that often public land assets are badly managed eg high costs, poor decisions
- Corruption
- Conflicts between the state and other land users eg expropriation, customary lands, encroachment
- Agent for the abuse of human rights

## What has been done before?

- There is a substantial literature on the management of state land but it tends to focus on a limited range of issues
- Great deal of interest in innovations in public management eg the New Public Management but limited attention paid to state land
- A number of countries have made available manuals on land management eg Australia, Canada, New Zealand and for UK by RICS - Good practice often available but often not set in context.
- Material often heavily orientated towards OECD countries eg Urban Institute (2006) *Managing Government Property Assets* – 14 contributions, 10 about OECD countries – neglect of issues that affect majority of countries
- Important role of FAO eg support for last year's conference in Verona; special issue of *Land reform* on state land management 2009/2; Land Tenure Study on state and public sector land management being written.
- Need for comparative analysis and to address the problems of transitional and emerging countries

# What is state and public sector land?

- In countries where all land is state land, no problem in defining state land.
- In other countries, it can be difficult to be precise about where the government ends and the private sector begins eg nationalised and state industries, state shareholdings, agencies, outsourcing and contracting out of public services, public private partnerships, explicit and implicit guarantees of debt and funding of private bodies to deliver public services all blur the distinction between the public and private sectors.
- State can be defined by national income statistics or government accounts eg Eurostat (EU's statistical agency) – assets in public private partnerships are non-governmental if the private partner bears the construction risk and either the availability or demand risk.
- Exclude bodies which are not public governments eg those that manage land on behalf of co-owners, tribe or community

Aim of the study is to look at land owned managed or controlled by a state and public sector body

## What is state and public sector land used for?

- Varies between countries according to the functions the state is supposed to discharge
- **Operational property** – land used for the delivery of public services
- **Investment property** – land used to generate income for the state eg rents, fees, charges, premiums – an alternative to raising revenue through taxes
- **Trustee property** – land for which the state is custodian on behalf of society or a specific group

## How is state and public sector land organised?

- It all depends upon the constitutional settlement in the country - determines the tiers of government and what they are responsible for eg differences between a unitary state and a federation
- Different philosophies of subsidiarity – devolving of power and responsibility as close to the citizen consistent with efficiency
- Many services must be provided locally eg education, healthcare - but could be by local authority or local agent of central government

## State land rights

- State land can be rented as alternative to being owned.
- State often has powers over private land eg development rights, environmental controls, mineral rights.
- Private bodies may use or have rights over state land eg customary land
- Where do private land rights derive from? Do they derive from the state?
- Present state lands may be a product of history



# A continuum of state land rights

Inalienable land

Registered freehold

Unregistered freehold

Easements and charges

Adverse possession

Long lease

Short lease

License to occupy

Encroachment

# State land as bundle of rights and obligations

- Owner
- Landlord
- Tenant
- Manager
- Partner
- Guarantor
- Controller
- Regulator
- Trespasser
- Usurper

## State lands are not always exclusive space for the use of the state

- Others may have ownership or occupancy rights
- State rights may be constrained by rights of others
- State may be constrained by same limitations as all owners eg environmental regulations, taxes, compulsory registration

# Potential for conflict between state and others with claims to state land

- Expropriation
- Compulsory purchase
- Restitution
- Privatisation
- Land grants
- Encroachment
- Land grabbing

From [The Times](#)

October 9, 2009

## Peru Indian tribes join forces to fight off Amazon sale to oil companies



Achuar elders in Washintsa, Peru. The Government plans to auction off 75 per cent of the Amazon to companies

**Best practice?**

**Taking a little bit  
of the best of  
everything**



# CONTEXT IS VITAL TO UNDERSTANDING!